

TOWN OF TIVERTON  
ZONING BOARD OF REVIEW  
MINUTES

SEPTEMBER 2, 2009

The following petitions were received and will be heard by the Tiverton Zoning Board of Review on Wednesday, September 2, 2009 at 7:30 p.m. at the Tiverton Town Hall, 343 Highland Road.

Members present: Chairman David Collins, John Jackson, Richard Taylor, Susan Krumholz, Lise Gescheidt and Michael Mello (Alternate)

Also present were: Peter Ruggiero, Town Solicitor, Mary Ann Escobar, Court Reporter and Gareth Eames, Building Inspector.

1. A petition has been filed by the Tiverton Yacht Club, 58 Riverside Drive requesting a variance to Article V, Section 1 of the Tiverton Zoning Ordinance in order to permit existing lockers to remain located at 0 Riverside Drive, Tiverton, RI being Map 6-5, Block 73, Card 30 on Tiverton Tax Assessor's maps closer to the side yard setback than currently allowed in a waterfront zoning district.

**DECISION:** This petition was withdrawn upon request from the yacht club.

2. A petition has been filed by Olive M. & Rosemary Eva of 4019 Main Road, Tiverton, RI appealing the decision of the Building Official to issue a permit on January 13, 2009 for a freestanding sign located at 3988 Main Road, Tiverton, RI being Map 2-3 Block 125 Card 16 on Tiverton Tax Assessor's Maps and located in an R80 zoning district.

**DECISION:** The Board went into Executive Session to vote on this petition. Mr. Taylor made a motion we uphold the appellate and find that the building official issued the building permit in error. Mr. Mello seconded. The Vote was 3-2. Voting for were Richard Taylor, Michael Mello & Susan Krumholz. Opposed were John Jackson and Lise Gescheidt.

3. A petition has been filed by Diana M. Botelho of 136 Maple Drive, Tiverton, RI requesting a variance to Article 6, Section 3.b. of the Tiverton Zoning Ordinance in order to allow an existing garage to remain in the front yard after adjusting the western property line through an Administrative Subdivision at 136 Maple Drive, Tiverton, RI being Map 3-7 Block 211 Card 1C on Tiverton Tax Assessor's Maps whereby accessory structures can not occupy the front yard in an R80 zoning district.

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**DECISION:** Ms. Diana Botelho appeared before the Board. She submitted a letter stating she can speak on behalf of her mother. Ms. Botelho stated she is looking to adjust the lot line. She appeared before the planning board to create a new lot line. They created it, but did not put it exactly where it was supposed to. She built her house and now planning sent her to zoning to seek a variance, due to the structure being too close to the line. She is looking for a variance to adjust the lot line.

The Board went into Executive Session to discuss the matter. Ms Gescheidt made a motion that after a review of the factual predicate that this petitioner does not need a variance and that the garage can stay. Ms. Krumholz seconded. The Vote was unanimous. Voting were: David Collins, John Jackson, Richard Taylor, Susan Krumholz and Lise Gescheidt.

4. A request has been received by Kenneth Tremblay of Portsmouth, RI, Attorney for the Tiverton Yacht Club for an extension of time regarding a decision dated September 8, 2008 to allow a special use permit for the installation of an ISDS at 58 Riverside Drive, Tiverton, RI being Map 6-5, Block 70, Card 5 on Tiverton Tax Assessors maps and located in an R40 zoning district.

**DECISION:** This petition was withdrawn upon request from the yacht club.

5. A petition has been filed by Marian Beckman of 124 Poinsetta Way and Frank A. Perrino of 396 Nanaquaket Road, Tiverton, RI requesting a special use permit to Article VII Section 4.c. of the Tiverton Zoning Ordinance in order to adjust a property line between Map 3-10 Block 191 Card 9 and 124 Poinsetta Way, Tiverton, RI being Map 3-10 block 191 Card 8 whereby increasing the non-conformity of lot area of Card 9 and decreasing the non-conformity of lot area of Card 8 leaving both lots with less than required lot area located in a R60 zoning district.

**DECISION:** Attorney Joe Petrone appeared on behalf of the petitioner. He stated that the Beckmans and Perrinos want to create equal lots. The parties have submitted an administrative subdivision in order to do so. The planning board granted them a conditional approval based upon the findings of the zoning board. Basically they are making two irregular shaped lots, into two parallel shaped lots.

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The Board went into Executive Session to discuss the matter. Mr. Mello made a motion to grant the variance. Mr. Jackson seconded. The Vote was unanimous. Voting were: David Collins, John Jackson, Richard Taylor, Susan Krumholz and Lise Gescheidt.

6. A petition has been filed by Marian Beckman of 124 Poinsetta Way and Frank A. Perrino of 396 Nanaquaket Road, Tiverton, RI requesting a variance to Article V Section 1 of the Tiverton Zoning Ordinance in order to adjust a property line between Map 3-10 Block 191 Card 9 and 124 Poinsetta Way, Tiverton, RI being

Map 3-10 block 191 Card 8 whereby increasing the non-conformity of lot area of Card 9 and decreasing the non-conformity of lot area of Card 8 leaving both lots with less than required lot area located in a R60 zoning district.

**DECISION:** This petition was withdrawn by Attorney Petrone.

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7. A petition has been filed by William R. Strachan of 203 Lake Shore Drive, Mahopac, NY requesting a special use to Article VII, Section 4 of the Tiverton Zoning Ordinance in order to raze an existing home and construct a new single family dwelling at 5 Grace Street, Tiverton, RI being Map 1-2 Block 167 Card 91 on Tiverton Tax Assessor's Maps exceeding lot coverage and height as currently allowed in a R80 zoning district.

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**DECISION:** Michael Zmich from Stonebridge Associates, appeared on behalf of the petitioner. He stated the petitioners would like to make this dwelling a full time residence. They are looking for 29 percent lot coverage instead of 25 percent and they are also looking for a height of 27 feet 10 inches instead of 25. He stated the actual first floor is only 20 square feet over the lot coverage, but because of the front porch and such, it pushes it to the 29 percent. Also, under the porch will act like a garage, therefore, getting cars off the street. It will be a relatively modest two bedroom house that will fit the neighborhood.

Mr. Strachan stated that it will have a new state of the art septic bottomless sand design, already approved by DEM. Mr. Mello had a question about water runoff. Mr. Strachen stated that they currently catch the rainwater in capture barrels and use it for washing cars and watering the gardens.

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The Board went into Executive Session to discuss the matter. Mr. Jackson made a motion to grant this special use permit for the following reasons: That the public convenience and welfare will be served, it is not detrimental to the public safety, morals and welfare, it's compatible with neighboring uses, and does not create a nuisance in the neighborhood, it will not hinder or endanger vehicular or pedestrian movement, and adequate provisions for water surfaces, sanitary sewerage disposal have been discussed and deemed adequate. Ms. Gescheidt seconded. The Vote was 4-1. Voting for were David Collins, John Jackson, Susan Krumholz, Lise Gescheidt. Opposed: Richard Taylor.

8. A petition has been filed by William E. & Susan Grenier, Matthew & Melanie Conway by their Attorney Stetson W. Eddy of 1340 Main Road, Tiverton, RI requesting a variance to Article VIII, Section 3.d.(1) of the Tiverton Zoning Ordinance in order to upgrade the existing septic system and reconstruct and/or construct additions to existing structures at 549 Stafford Road, Tiverton, RI being Map 3-12 Block 113 Card 32 on Tiverton Tax Assessors maps whereby all

development and activities within 200 feet of Stafford Pond require a variance in an R60 zoning district.

**DECISION:** Attorney Stetson Eddy appeared on behalf of the petitioners. He stated that the site is a 10 acre parcel on the northeast corner of Stafford Pond. It's accessed by a gravel driveway coming in from Stafford Road and the utilities poles come in along that driveway. The site contains six single family dwellings. The houses are at the western end of the peninsula along the pond. Each structure presently has its own rudimental septic tank or cesspool and all the houses share a single well.

Mr. Kamal Hingorany stated that he has created an ISDS plan that will accommodate 24 persons, which is the number of people residing in the six dwellings. His firm developed the environmental review statements which were reviewed and approved by the planning board.

Mr. Blaire Shanklin, architect, appeared before the board and stated that the renovations to these houses will be an improvement and most of these improvements are modest in comparison to the existing lot coverage.

Ms. Susan Grenier appeared before the board and stated that this parcel is approximately 10.1 acres and has been in the Grenier family for 50 years. She wishes to have these improvements so she can stay there year round. They currently have two port-a-johns that are serviced weekly. She stated that it would be more of a mere inconvenience to her if this variance was not granted. She also stated that she's talked to her neighbors about what she's proposing to do down there and they are very happy with the improvements she will be doing.

The Board went into Executive Session to discuss this petition. Ms. Gescheidt made a motion to grant the variance for the following reasons: That the evidence has shown that the public convenience and welfare will be served and that there would be no detrimental impact to public health, safety, morals or welfare, that it's compatible with the neighborhood uses and will not adversely affect the general character of the area. There will be no nuisance created. There will be no hindering or endangering of vehicular or pedestrian movement. It will also have adequate provision for water services, sanitation sewerage disposal and fire protection and it's also compatible with the Comprehensive Plan. Mr. Jackson seconded. The Vote was 4-1. Voting for were David Collins, John Jackson, Susan Krumholz, Lise Gescheidt. Opposed: Richard Taylor.

9. A petition has been filed by Paul J. Tavares of 164 Slades Corner Road, Dartmouth, MA requesting a special use permit to Article IV, Section 10.f. of the Tiverton Zoning Ordinance in order to continue the outdoor display of sheds for sale and proposes to display and sell shrubs and garden supplies on the premises located at 67 William S. Canning Blvd, Tiverton, RI being Map 3-13 Block 107 Card 13c on Tiverton Tax Assessor's maps whereby this use requires a special use permit in a Highway Commercial zoning district.

**DECISION:** Mr. Leary appeared on behalf of the petitioner. He states that his client wishes to expand the area upon which he can sell his sheds. He also would like to sell other small garden items. He also sells produce and fruits at his stand.

Mr. Tavares stated that he wishes to expand his business with a few more sheds and some small gardening tools. He also would like to sell some small shrubs and flowers, in addition to the vegetables and fruits that he sells already. He also wants to put down asphalt and have parking spaces established. His business will operate from April to November 1.

Mr. Donald Medeiros, engineer and surveyor, appeared before the board and stated that the current sign that is there will need to be moved. They have applied to the state properties commission in order to do so, because that is a public highway and are awaiting results from that.

Mr. Christopher Spencer, Town Planner, stated that he reviewed the site and felt that it would not be detrimental to the public health and welfare, that the public convenience and welfare will be served by making this addition. He also stated that it is comparable to the surrounding area, and it would not create a nuisance.

The Board went into Executive Session to discuss the matter. Mr. Taylor made a motion to grant the variance in accordance with special use requirements one through six. In addition, there will be a limit of ten sheds to be stored on this lot at one time. Ms. Gescheidt seconded. The Vote was unanimous. Voting were: David Collins, John Jackson, Richard Taylor, Susan Krumholz and Lise Gescheidt.

10. A petition has been filed by Paul J. Tavares of 164 Slades Corner Road, Dartmouth, MA requesting a variance to Article VI, Section 1, Article X, Sections 1.d.(4) & (5) and Article XII, Section 7.e. of the Tiverton Zoning Ordinance in order to have some proposed off- street parking, loading and outdoor storage within the front and side yards, with less than required screening and landscaping than required for off-street parking areas on the premises located at 67 William S. Canning Blvd, Tiverton, RI being Map 3-13 Block 107 Card 13c on Tiverton Tax Assessor's maps and to locate a freestanding off-site sign within the state highway layout located in a Highway Commercial zoning district.

**DECISION:** Mr. Leary appeared on behalf of the petitioner. He states that his client wishes to expand the area upon which he can sell his sheds. He also would like to sell other small garden items. He also sells produce and fruits at his stand.

Mr. Tavares stated that he wishes to expand his business with a few more sheds and some small gardening tools. He also would like to sell some small shrubs and flowers, in addition to the vegetables and fruits that he sells already. He also wants to put down asphalt and have parking spaces established. His business will operate from April to November 1.

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The Board went into Executive Session to discuss the matter. Mr. Taylor made a motion to grant the variance in accordance with special use requirements one through six. In addition, there will be a limit of ten sheds to be stored on this lot at one time. Ms. Gescheidt seconded. The Vote was unanimous. Voting were: David Collins, John Jackson, Richard Taylor, Susan Krumholz and Lise Gescheidt.

11. A petition has been filed by Jeremy S. Sager of 233 Armington Street, Cranston, RI requesting a variance to Article VI, Section 3.b. and Article V, Section 1 of the Tiverton Zoning Ordinance in order to construct a garage/storage building in the front yard exceeding maximum height and to construct a studio exceeding maximum height located at 0 Main Road, Tiverton, RI being Map 2-2 Block 125 Card 27A on Tiverton Tax Assessor's maps and located in an R80 zoning district.

**DECISION:** The Board discussed whether Mr. Sager needed a variance for the front yard setback and it was decided he did not need a variance for that due to the change in the zoning ordinance.

Attorney Holland appeared on behalf of Mr. Sager and stated that this property has 23 acres to it. Mr. Sager wishes to retire and move down here. The land is extremely wet, but there is one section where they can put a house and wish to do so. The land has been wetland delineated and determined that in the left-hand corner, the north corner is the highest spot and best suited for the septic system. The property is used for farmland and is still being used by a local farmer. They are looking for a height variance of two feet on the garage and three feet three inches on the studio.

Mr. Trombly appeared before the board and stated he was the architect which designed and signed these drawings.

Mr. Carl Malafey, a neighbor, appeared before the board and stated that he has no objection to this house being built. He is the only neighbor who would be effected by this construction.

Exhibit A: Signed drawing of site plan.

Exhibit B: Drawing labeled Sager site.  
Exhibit C: Tax assessor's map

Mr. Bill Smith, engineer, appeared before the board and stated that the reason for the extra height is because of the wetness of the property and the foundation will have to be raised more so than on other properties. None of the buildings will be in the wetland or DEM buffer areas. The garage and studio will be placed according to good building design standards and will be in tune with the elevations of the septic system. Said septic system has already been approved by DEM.

Mr. Nathan Goddfrey, real estate expert, appeared before the board and stated that the proposed project would not have any adverse effect on the neighboring properties.

The Board went into Executive Session to discuss the matter. Mr. Mello made a motion to grant the variance, that this would not have any adverse effect on the neighborhood and that also due to the constraints of the land, they need to increase the elevation of the foundation and put the buildings where they are putting them. Ms. Krumholz seconded. The Vote was unanimous. Voting were: David Collins, John Jackson, Richard Taylor, Susan Krumholz and Lise Gescheidt.

#### **Administrative Items:**

Election of Officers

David Collins – Chairman  
Lise Gescheidt - Vice Chair  
Richard Taylor – Secretary

Whereupon the meeting adjourned at 10:49 p.m.

ZBR: MAE